

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

ANDREW JONES,	:	
	:	
Plaintiff,	:	
v.	:	CIVIL ACTION FILE
	:	NO.: 2:11-CV-0066-RWS-SSC
MILLIKEN & COMPANY, INC., :	:	
	:	
Defendant.	:	

FINAL REPORT AND RECOMMENDATION

Plaintiff filed this employment discrimination action pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et. seq.* [Doc. 1] on March 14, 2011. By Order entered on March 14, 2011, the Court granted Plaintiff leave to amend his complaint [Docs. 3 and 4]. Plaintiff failed to serve Defendant with the summons and complaint, as amended, within 120 days pursuant to Fed. R. Civ. P. 4(m).

Fed. R. Civ. P. 4(m) provides:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

By Order entered on July 15, 2011, Plaintiff was ordered to either submit documentation that service was waived or timely effectuated or to show cause

within fourteen (14) days from the date of entry of the Order why the complaint should not be dismissed for failure to serve Defendant [Doc. 6]. Plaintiff then moved for an extension of ninety (90) days in which to retain counsel and serve the defendant [Doc. 8]. By Order entered on July 29, 2011, the Court granted Plaintiff an extension through and including October 26, 2011 in which to serve the defendant in this matter [Doc. 9]. Plaintiff was advised that no further extensions of the time for serving Defendant with the complaint and summons would be granted whether or not he had been able to retain counsel. Plaintiff failed to serve the defendant as directed.

Therefore, by subsequent Order entered on October 31, 2011, Plaintiff was again directed to either submit documentation that service was waived or timely effectuated or to show cause within fourteen (14) days from the date of entry of the Order why his complaint should not be dismissed for failure to serve Defendant as directed [Doc. 10]. To date, Plaintiff has failed to comply with the Court's Order in its entirety.

Accordingly, it is **RECOMMENDED** that Plaintiff's complaint be **DISMISSED without prejudice** for his failure to serve Defendant within 120 days of filing his complaint pursuant to Fed. R. Civ. P. 4(m) and pursuant to LR 41.3A(2), NDGa. for his failure to comply with an Order of the Court. The Clerk is **DIRECTED** to terminate the District Court's referral of this action to the undersigned.

IT IS REPORTED AND RECOMMENDED this 17th day of November,
2011.

*Susan S. Cole*_____

SUSAN S. COLE
United States Magistrate Judge